

MDR Tracking Number: M5-04-0716-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 5, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening/conditioning and each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This findings and decision is hereby issued this 27th day of January 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 05/19/03 through 07/03/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 27th day of January 2004.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division
DRM/pr

NOTICE OF INDEPENDENT REVIEW DETERMINATION

January 19, 2004

MDR Tracking Number: M5-04-0716-01
IRO Certificate No.: 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

____ sustained a lumbar lifting injury _____. He initially received three weeks of therapy prescribed by _____ and was taken off work. Due to lack of improvement, he was referred to _____ on 7/12/02. He was provided medications and intramuscular injections. An MRI was performed 7/17/02 and _____ informed the patient his condition would require surgery. The patient requested a second opinion. He was eventually placed at MMI when he refused to proceed with surgical intervention. On 11/5/02 _____ assessment was that the patient had not reached MMI and on 11/15/02 _____ performed an EMG/NCV with findings suggesting an L5-S1 radiculopathy. TWCC approved a change of treating doctors on 12/12/02 and _____ started caring for _____. On 1/3/03, _____ developed a treatment plan for the patient. On 2/7/03 the patient received his first of three steroid injections; the following injections were performed on 3/3/03 and 5/9/03. A CT Myelogram performed 3/20/03 suggested there was not a need for surgical intervention. Designated doctor _____ saw the patient on 4/16/03 and found the patient to not be at MMI with the estimated date to be 7/17/03 before MMI would be reached. Rehab was continued with this patient.

On 5/14/03 an FCE was performed and the results showed the patient had made significant gains. However, he was not fit to return to his normal work environment.

REQUESTED SERVICE (S)

Work hardening/conditioning and each additional hour on dates 5/19/03 through 7/3/03.

DECISION

Services were warranted.

RATIONALE/BASIS FOR DECISION

Prior dates were reviewed in this case for medical necessity which is reflected in the clinical history notes. Following TWCC Guidelines, an FCE was performed on 5/14/03 which is the appropriate time since the patient had been in active rehab since January 2003. Since the patient was not deemed a surgical candidate, all parties involved with treating this patient suggested continued rehab based on the documentation received. The FCE performed on 5/14/03 documented improvement with the patient's condition; however, he was not able to return to his duties at work without aggravating his condition and was subjectively still symptomatic. The patient was reporting subjective improvement with the rehab program which correlated with the FCE exam. TX Labor Code allows for reasonable treatment if it is improving the patient's condition. Based on TWCC Guidelines, the patient would next need to proceed with Work Conditioning or a Work Hardening Program. Noted in the psychological portion of the FCE was a need to address psychological issues based on standardized scoring. With this factored into the treatment plan, the Work Hardening program would be appropriate and medically necessary to address all issues for this patient.